

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

BYRON MARTIN,
Plaintiff

v.

STEVEN GOLD (individual capacity)
and CELESTE MARIE GIRRELL
(individual capacity),
Defendants

:
:
:
:
:
:
:
:
:

File No. 1:03-CV-240

ORDER

The Magistrate Judge's Report and Recommendation was filed May 25, 2005 (Paper 66). After de novo review and over objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1). Defendants' motion for summary judgment (Paper 50) is GRANTED. Plaintiff's motion for summary judgment (Paper 65) is DENIED as moot.

Further, plaintiff's motion for relation back, construed as a motion to amend, (Paper 71) and motion for extension of time (Paper 74) are DENIED as moot, and the request for counsel (Paper 72) is DENIED.

It is further certified that any appeal taken in in forma pauperis from this Order would not be taken in good faith because such an appeal would be frivolous. See 28 U.S.C. § 1915(a)(3).

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 19th day of August, 2005.

/s/ J. Garvan Murtha

J. Garvan Murtha
United States District Judge